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09/647,130	03/05/2001	Dieter Dohring	TURKP0113US	4010

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EXAMINER

FISCHER, JUSTIN R

ART UNIT

PAPER NUMBER

1733

DATE MAILED: 12/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

### Office Action Summary

**Application No.**

09/647,130

**Applicant(s)**

DOHRING ET AL.

**Examiner**

Justin R Fischer

**Art Unit**

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other:

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Lindgren (US 4,940,503, of record). Lindgren is directed to a method for producing decorative laminates comprising spreading hard particles, such as aluminum oxide, on a decorative paper impregnated with melamine resin, drying the thus coated decorative paper, applying a covering layer of fiber material or overlay sheet containing melamine resin, and drying the entire assembly (Column 1, Lines 16-22, Column 1, Line 65 – Column 2, Line 35, and Column 2, Lines 56-58).

Regarding claims 2 and 7, the overlay sheet of Lindgren, described as being formed of cellulosic fibers impregnated with melamine-formaldehyde resin, is seen to constitute a fiber fleece. It is noted that the original disclosure lacks any description that distinguishes the claimed fiber fleece from the overlay sheet of Lindgren.

As to claims 5 and 6, Lindgren suggests a particle loading of between 2 and 20 g/m<sup>2</sup>, preferably 3-12 g/m<sup>2</sup> (Column 1, Line 67 – Column 2, Line 1).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindgren and further in view of Veneziale, Jr. (US 3,663,341, of record). As previously stated, Lindgren describes the use of a "conventional" overlay in combination with a particle treated decorative sheet in the manufacture of a decorative laminate. Lindgren further states that the overlay paper is commonly alpha cellulosic paper (Column 2, Lines 25-30). While it is the examiner's position that the overlay of Lindgren constitutes "a covering layer of fiber material" (as required by the claimed invention), applicant contends that the respective layers are not the same (based on arguments in previous paper). However, it is well known in the decorative lamination industry that top sheets or overlays can have a variety of forms, as shown for example by Veneziale, Jr. (Column 2, Lines 4-6). In this instance, Veneziale, Jr. suggests the use of mats, rovings, yarns, woven goods, and paper sheet-like layers as top layers in the manufacture of decorative laminates. One of ordinary skill in the art at the time of the invention would have found it obvious to form the top layer of Lindgren in any of the well known forms recognized in the decorative lamination industry, there being no conclusive evidence of unexpected results to establish a criticality for the claimed layer form (if indeed it is different from the paper disclosed by Lindgren).

Regarding claims 2 and 7, as noted above, Veneziale, Jr. discloses a wide variety of forms for the top layer, including a mat, which is seen to constitute a "fiber

fleece". Also, as previously noted, Lindgren describes the use of cellulosic fibers to form the top layer.

With respect to claims 5 and 6, Lindgren suggests a particle loading of between 2 and 20 g/m<sup>2</sup>, preferably 3-12 g/m<sup>2</sup> (Column 1, Line 67 – Column 2, Line 1).

5. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindgren. As previously stated, Lindgren suggests that the melamine impregnated decorative paper is coated with particles, such as aluminum oxide. In describing the application of aluminum oxide, Lindgren suggests that the average particle size is between 1 and 80 micrometers. While Lindgren fails to expressly suggest the use of particles having a particle size of "about 125 micrometers", one of ordinary skill in the art at the time of the invention would have found such particles obvious in view of the range disclosed by Lindgren. In particular, Lindgren suggests an average particle size of as high as 80 micrometers- one of ordinary skill in the art at the time of the invention would have readily appreciated the inclusion of particles having a particle size of "about 125 micrometers" since the range of Lindgren suggests particle sizes greater than and below 80 micrometers, it being further noted that the original disclosure fails to expressly define the range suggested by "about 125 micrometers". Lastly, one of ordinary skill in the art at the time of the invention would have recognized that the particle size is dependent on the particle loading and the desired/necessary degree of abrasion resistance (function of use of decorative laminate).

Regarding claim 4, Lindgren suggests an embodiment in which the aluminum oxide particles are applied to a decorative paper (decor paper) and a conventional

overlay is subsequently disposed over the treated decor paper. In describing the decor paper, Lindgren teaches an exemplary embodiment in which said decor paper has an area density or surface weight of 80 grams per square meter (Column 7, Lines 20-25 and Lines 55-60). While Lindgren fails to define the surface weight after impregnation and coating of the decor paper with the aluminum oxide particles, it is clearly evident that the surface weight would increase due to the impregnating resin and the aluminum oxide particles. As such, one of ordinary skill in the art at the time of the invention would have readily appreciated a surface weight for the decor paper of between 140 and 150 grams per square meter, there being no conclusive evidence of unexpected results to establish a criticality for such a surface weight. It is further noted that the surface weight of the decor paper (after impregnation, coating of particles, and drying) is dependent on, among other things, the initial surface weight of the decor paper and the quantity of particles, such that it would have been within the purview of one of ordinary skill in the art at the time of the invention to form a decor paper having a surface weight of between 140 and 150 grams per square meter depending on the specific product being manufactured. Lastly, it is noted that the pre-impregnated surface weight of the decor paper of the claimed invention (Examples 1 and 2) is extremely similar to that detailed by Lindgren and further, the quantity of aluminum oxide particles applied in the claimed invention is extremely similar to that detailed by Lindgren.

***Response to Arguments***

6. Applicant's arguments filed November 17, 2003 with respect to the rejection(s) of claim(s) 1-8 under 35 USC 103 have been fully considered and are persuasive.

Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Lindgren and Veneziale, Jr.

Regarding applicant's arguments, independent claim 1 requires a covering layer of fiber material. It is unclear how the overlay sheet of Lindgren, which is formed of cellulosic fibers, does not constitute a covering layer of fiber material. The original disclosure fails to provide a specific meaning to "a covering layer of fiber material" that would distinguish it from the overlay sheet of Lindgren. In any event, Veneziale has been applied to further evidence the variety of well-known forms that are suitable for the top sheet, including a mat or fiber fleece. Second, regarding the separate production, it appears that both the claimed invention and Lindgren apply an additional layer to a particle coated decorative layer. Thus, both the claimed invention and Lindgren require an additional step of forming a covering layer or an overlay sheet. Lastly, regarding the "fiber fleece" of claim 2, the original disclosure fails to distinguish a "fiber fleece" from the overlay sheet of Lindgren. In both instances, the "fiber fleece" and overlay sheet are described as separate layers formed of cellulosic fibers and melamine resin. As such, the overlay sheet of Lindgren is seen to constitute a fiber fleece".

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Justin R Fischer** whose telephone number is (571) 272-1215. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (703) 308-3853. The fax phone

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number for the organization where this application or proceeding is assigned is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

  
Justin Fischer

December 15, 2003

  
JEFF H. AFTERGOOD  
PRIMARY EXAMINER  
GROUP 1300